

SENT TO COUNCIL ON:

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Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Leslye Corsiglia
Scott P. Johnson

SUBJECT: SEE BELOW

DATE: August 18, 2005

Approved

Date

8/19/05

COUNCIL DISTRICT: Citywide

INFORMATION

SUBJECT: REPORT ON ACTIVITIES UNDERTAKEN BY THE DIRECTOR OF HOUSING AND THE DIRECTOR OF FINANCE UNDER THE DIRECTORS' DELEGATION OF AUTHORITY FOR THE PERIOD OF APRIL 1, 2005 THROUGH JUNE 30, 2005

BACKGROUND

On September 4, 1990, the City Council adopted Ordinance No. 23589, which delegated to the Director of Housing certain specified authorities in the administration of the City's comprehensive affordable housing program (the "Delegation of Authority"). On May 23, 2000, the Delegation of Authority was amended by Ordinance No. 26127 to clarify certain sections and add several other provisions. On June 25, 2002, the Delegation of Authority was further amended by Ordinance No. 26657 to add several provisions delegating additional authority to the Directors of Housing and Finance and to the City Manager. Subsequently, the City Manager delegated to the Director of Housing the Contract Authority granted to the City Manager.

The Delegation of Authority is codified in Chapter 5.06 of the Municipal Code. This memorandum reports on activities undertaken pursuant to the Administration's delegated authority for the period of April 1, 2005 through June 30, 2005.

ANALYSIS

The Delegation of Authority Ordinance authorizes the Director of Housing: to develop and implement additional guidelines for housing programs; to adjust terms on housing loans and grants; to change the funding sources of a loan; to convert loans to grants; to loan or grant Housing and Homeless funds, Predevelopment funds, and Housing Rehabilitation Program funds; to negotiate and execute grant agreements necessary to implement Council-approved programs adopted in the Annual Action Plan of the Consolidated Plan; to provide management

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for, and/or dispose of, properties acquired through direct purchase, foreclosure or deed-in-lieu proceedings; to formalize the City Council's policies and procedures regarding housing loan defaults; to apply for federal or State funding; and to make other technical changes under the Director of Housing's Delegation of Authority. Ordinance No. 26657 further broadened the Director of Housing's authority to make adjustments, within defined parameters, to loans and grants previously approved by the City Council; to delegate jointly to the Director of Housing and Director of Finance authority related to the City's issuance of tax-exempt, private-activity bonds to finance the development of affordable housing projects; to delegate to the Director of Finance the authority to hold Tax Equity and Fiscal Responsibility Act (TEFRA) hearings on the City's proposed issuance of tax-exempt bonds to finance affordable housing projects and the authority to determine, within defined parameters, various terms and conditions of loans and grants previously approved by the City Council.

ACTIONS TAKEN BY THE DIRECTOR OF HOUSING

Under the parameters of the Delegation of Authority, the Director of Housing has taken the following actions during the period of April 1, 2005 through June 30, 2005:

Housing Trust Fund Grants:

| | |
|---------------------------------|--------------------|
| Community Technology Alliance | \$ 45,000 |
| Emergency Housing Consortium | \$ 225,365 |
| InnVision | \$ 200,933 |
| Sacred Heart Community Services | <u>\$ 545,867</u> |
| TOTAL: | \$1,017,165 |

Housing Rehabilitation and Improvement Loans and Grants Approved:

| <u>ACTIVITY</u> | <u>NUMBER</u> | <u>AMOUNT</u> |
|------------------------|----------------------|----------------------|
| REHABILITATION LOANS | 5 | \$ 133,400 |
| REHABILITATION GRANTS | 66 | \$ 989,377 |
| PAINT GRANTS | 0 | \$ 0 |
| TOTAL: | 71 | \$1,122,777 |

Modifications to Council-Approved Loan Terms & Conditions:

Turnleaf Apartments - District: 1 – SNI: WINCHESTER

On December 10, 2002, the City Council approved a funding commitment of up to \$2,775,000 to repay the construction loan from Bank of America upon completion of the rehabilitation and once occupancy had reached 93%. During performance of the final inspection, Housing Department inspectors detected severe dry rot damage on 48 of the balconies, which could have potentially posed a health and safety hazard and therefore needed immediate repair. On April 12, 2005, the Director of Housing approved an increase in the City's permanent loan amount by \$176,000 to repair the balconies as follows:

- Increase the permanent loan amount by \$176,000, from \$2,775,000 to \$2,951,000.

All other terms and conditions remain as approved by the City Council.

Catalonia Apartments – District: 6 – SNI: N/A

Catalonia Apartments, an Eden Housing project, is a 50-unit townhome development with eleven (11) units affordable to very low- income households and thirty-nine (39) affordable to low-income households. Located on Evans Lane, the development was completed in 1996. On April 28, 2005, the Director of Housing approved the following amendment to allow a refinancing in order to reduce the monthly payment and generate additional cash flow:

- Authorize the subordination of the existing City loan in the amount of \$2,250,000 to the proposed new loan from Citibank in the amount of \$2,628,545.
- Authorize Loan Management-Collections to execute all necessary legal documents.

All other terms and conditions remain as approved by the City Council.

Las Mariposas – District: 5 – SNI: N/A

On February 24, 2004, the City Council approved a construction and permanent loan of up to \$4,181,662 and a conditional grant in the amount of \$630,000 for the development of Las Mariposas, which offers two- and three-bedroom for-sale condominiums and townhouses targeted to low- and moderate-income buyers. The City Council also authorized the rollover of an amount up to \$2,350,000 in subordinate-position mortgage loans to qualified homebuyers for second mortgages of up to \$50,000. In July 2004, the Housing Department was awarded an additional \$1,410,000 in Building Equity and Growth in Neighborhoods (BEGIN) program funds from the State Department of Housing and Community Development to be used as downpayment assistance to first-time homebuyers in the Las Mariposas Development. These BEGIN Funds provided a source of funds so that the City could increase its maximum subordinate loan amount per household to \$60,000.

On June 24, 2005, the Director of Housing approved an increase in the maximum City loan amount from \$50,000 to \$60,000 per household and approved a final sales price list.

All other terms and conditions remain as approved by the City Council.

Morrone Gardens Associates – Districts: 9 – SNI: N/A

Morrone Gardens, a 102-unit project for low-income seniors, was developed by the Housing Authority of the County of Santa Clara ("HACSC") and was completed in September 1994. Historically, the project has operated with financial solvency and a vacancy rate below 5%. On March 26, 2003, the City approved a 24-month bridge loan in the amount of \$236,827 to assist the project in paying for costs associated with mold remediation. The Note matured on April 1, 2005 and is now due and payable. The sole source of repayment will be the settlement of a pending lawsuit against Branagh Construction for improper siding installation, for which the litigation schedule has been delayed.

On May 3, 2005, the Director of Housing approved the following amendments:

- Approve the extension of the maturity date from April 1, 2005, to the earlier of the litigation payout or April 1, 2007.
- Amend the current interest rate from zero percent (0%) to three (3%) percent simple interest. Principal and interest will be payable at the earlier of the litigation payout or April 1, 2007.
- Recommend that the Housing Authority of the County of Santa Clara remain as the guarantor of this unsecured note.
- Authorize Loan Management-Collections to execute all necessary legal documents.

All other terms and conditions remain as approved by the City Council.

Vintage Tower Apartments – District: 3 – SNI: N/A

On April 27, 2004, the City Council approved a loan of up to \$2,225,000 to First United Methodist Church Tower Properties, Inc., a California nonprofit corporation, for the Vintage Tower Apartments project. Silicon Valley Bank and Enterprise Social Investment Corporation, senior financiers for the project, have agreed to waive the requirement in "Section 5.05 – Financial Information" of the Construction/Permanent Loan Agreement, which states in part: "Developer shall furnish to the City such financial information as City may reasonably require, including without limitation: (C) Audited Financial Statements of Developer and General Partners within 120 days after the end of their fiscal year."

On June 2, 2005, the Director of Housing approved a change of the City's permanent loan terms by waiving the audit requirement for Calendar Year 2004.

All other terms and conditions remain as approved by the City Council.

Loans/Grants Terms and Conditions:

None this period.

PREDEVELOPMENT LOANS:

None this period.

TEFRA HEARINGS CONDUCTED BY THE DIRECTOR OF FINANCE:

Tax-exempt Bond Issuance Refinancing:

The City caused to be published on May 6, 2005 in the *San Jose Post Record*, a newspaper of general circulation in the City, a notice of a public hearing to be held on May 23, 2005, at 4:00 p.m. concerning the issuance of the Tax Exempt Bonds, all in accordance with the requirements of Section 147(f) of the Code.

The Director of Finance held a Tax Equity and Fiscal Responsibility Act (TEFRA) hearing on May 23, 2005 with respect to the Redevelopment Agency of the City of San Jose's ("RDA") intent to issue tax-exempt merged area redevelopment project housing set-aside tax allocation bonds to refinance the following projects: Betty Anne Gardens, Cinnabar Commons, Craig Gardens, Evans Lane VTA, Fallen Leaves, Helzer Court, Oak Tree Village, Ohlone-Chynoweth, Paseo Senter II, Sunset Square, and Villa Monterey, in the total aggregate amount not to exceed \$125,000,000. The hearing also provided for the inducement declaration for the purpose of allowing the expenditures incurred prior to the date of bond issuance to be reimbursed with tax-exempt bond proceeds for the Redevelopment Agency of the City of San Jose's ("RDA") tax-exempt merged area redevelopment project housing set-aside tax allocation bond projects.

| Project Name | Units | Location | Bond Amount | Mayor's Certificate No. |
|--|-------|----------|-----------------------------|-------------------------|
| Redevelopment Agency of the City of San Jose ("RDA") tax-exempt tax allocation bonds | N/A | Various | Not to exceed \$125,000,000 | No. 2005-1 Adopted |

Capitol Park Apartments

The City caused to be published on May 17, 2005 in the *San Jose Post Record*, a newspaper of general circulation in the City, a notice of a public hearing to be held on June 1, 2005, at 1:30 p.m. concerning the issuance of the Tax Exempt Bonds, all in accordance with the requirements of Section 147(f) of the Code.

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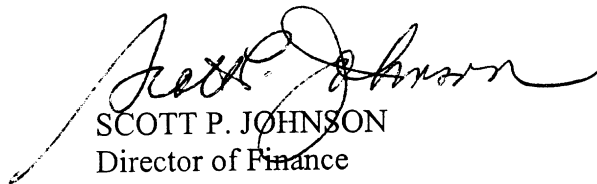
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The Director of Finance held a Tax Equity and Fiscal Responsibility Act (TEFRA) hearing on June 1, 2005 with respect to the Association of Bay Area Government's (ABAG) intent to issue multifamily housing revenue bonds, designated as Capitol Park Apartments (the "Bonds") in the aggregate amount not to exceed \$25,000,000 to finance the costs of the acquisition and rehabilitation of a 288-unit multifamily rental housing development located at 3975 Seven Trees Blvd. in the City of San Jose.

| Project Name | Units | Location | Bond Amount | Mayor's Certificate No. |
|-------------------------|-------|----------------------------------|--------------|-------------------------|
| Capitol Park Apartments | 288 | 3975 Seven Trees Blvd., San Jose | \$25,000,000 | No. 2005-2 Adopted |

COORDINATION:

Preparation of this report has been coordinated with the City Attorney's Office.


SCOTT P. JOHNSON
Director of Finance


LESELYE CORSIGLIA
Director of Housing